

AMENDED IN SENATE JULY 9, 2013
AMENDED IN SENATE JUNE 25, 2013
AMENDED IN ASSEMBLY MAY 28, 2013
AMENDED IN ASSEMBLY MAY 8, 2013
AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1001

**Introduced by Assembly Member Gordon
(Coauthor: Assembly Member Stone)**

February 22, 2013

An act to amend Sections 14538 and 14585 of the Public Resources Code, relating to recycling, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

AB 1001, as amended, Gordon. Recycling centers: beverage containers.

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Resources Recycling and Recovery. The department is required to deposit those amounts in the California Beverage Container Recycling Fund.

The act requires the department to certify recycling centers and requires, as a condition of certification, that if one or more certified entities have operated at the same location within the past 5 years, the operations at the location of the recycling center exhibit, to the

satisfaction of the department, a pattern of operation in compliance with the requirements of the act.

This bill would authorize the department to waive this requirement if it makes a specified determination.

(2) The act continuously appropriates from the California Beverage Container Recycling Fund to the department the amount necessary to pay handling fees monthly, in the form and manner adopted by the department, to certain supermarket sites and recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. Existing law specifies procedures for determining the number of containers for which a handling fee may be paid pursuant to a claim filed as specified and requires the per-container handling fee to be set, until March 1, 2013, at an amount that is not less than the amount of the per-container handling fee that was in effect on July 1, 2011. Existing law requires the department to conduct a survey of beverage container recycling costs every ~~two~~ 2 years and requires the department, after July 1, 2014, to determine the handling fee by conducting this survey and using the statewide weighted average costs incurred for the redemption of empty beverage containers.

This bill would delete the requirement that the handling fees be paid monthly and would instead require that claims for handling fees be filed electronically as part of a specified shipping report provided to the department. The bill would establish ~~the~~ *an unspecified* amount of the handling fees the department is required to pay on and after January 1, 2014, based on ~~the~~ *an unspecified* volume of beverage containers redeemed at each eligible recycling site, as defined.

The bill would authorize the department, on and after January 1, 2017, to adjust the *unspecified* amount of handling fees based on costs determined pursuant to a survey that department would be authorized to conduct on and after January 1, 2016, and not more frequently than every 2 years thereafter. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14538 of the Public Resources Code is
2 amended to read:

1 14538. (a) The department shall certify the operators of
2 recycling centers pursuant to this section. The director shall adopt,
3 by regulation, a procedure for the certification of recycling centers,
4 including standards and requirements for certification. These
5 regulations shall require that all information be submitted to the
6 department under penalty of perjury. A recycling center shall meet
7 all of the standards and requirements contained in the regulations
8 for certification. The regulations shall require, but shall not be
9 limited to requiring, that all of the following conditions be met for
10 certification:

11 (1) The operator of the recycling center demonstrates, to the
12 satisfaction of the department, that the operator will operate in
13 accordance with this division.

14 (2) (A) If one or more certified entities have operated at the
15 same location within the past five years, the operations at the
16 location of the recycling center exhibit, to the satisfaction of the
17 department, a pattern of operation in compliance with the
18 requirements of this division and regulations adopted pursuant to
19 this division.

20 (B) The department may waive the requirements of subparagraph
21 (A) if the department determines that the new operator applicant
22 has no relationship or affiliation to a previous certified entity that
23 operated at the same location.

24 (3) The operator of the recycling center notifies the department
25 promptly of any material change in the nature of his or her
26 operations which conflicts with information submitted in the
27 operator's application for certification.

28 (b) A certified recycling center shall comply with all of the
29 following requirements for operation:

30 (1) The operator of the recycling center shall not pay a refund
31 value for, or receive a refund value from any processor for, any
32 food or drink packaging material or any beverage container or
33 other product that does not have a refund value established pursuant
34 to Section 14560.

35 (2) The operator of a recycling center shall take those actions
36 that satisfy the department to prevent the payment of a refund value
37 for any food or drink packaging material or any beverage container
38 or other product that does not have a refund value established
39 pursuant to Section 14560.

1 (3) Unless exempted pursuant to subdivision (b) of Section
2 14572, a certified recycling center shall accept, and pay at least
3 the refund value for, all empty beverage containers, regardless of
4 type.

5 (4) A certified recycling center shall not pay any refund values,
6 processing payments, or administrative fees to a noncertified
7 recycler.

8 (5) A certified recycling center shall not pay any refund values,
9 processing payments, or administrative fees on empty beverage
10 containers or other containers that the certified recycling center
11 knew, or should have known, were coming into the state from out
12 of the state.

13 (6) A certified recycling center shall not claim refund values,
14 processing payments, or administrative fees on empty beverage
15 containers that the certified recycling center knew, or should have
16 known, were received from noncertified recyclers or on beverage
17 containers that the certified recycling center knew, or should have
18 known, came from out of the state.

19 (7) A certified recycling center shall prepare and maintain the
20 following documents involving empty beverage containers, as
21 specified by the department by regulation:

22 (A) Shipping reports that are required to be prepared by the
23 recycling center, or that are required to be obtained from other
24 recycling centers.

25 (B) Consumer transaction receipts.

26 (C) Consumer transaction logs.

27 (D) Rejected container receipts on materials subject to this
28 division.

29 (E) Receipts for transactions with beverage manufacturers on
30 materials subject to this division.

31 (F) Receipts for transactions with beverage distributors on
32 materials subject to this division.

33 (G) Documents authorizing the recycling center to cancel empty
34 beverage containers.

35 (H) Weight tickets.

36 (8) In addition to the requirements of paragraph (7), a certified
37 recycling center shall cooperate with the department and make
38 available its records of scrap transactions when the review of these
39 records is necessary for an audit or investigation by the department.

(c) The department may recover, in restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2, payments made from the fund to the certified recycling center pursuant to Section 14573.5 that are based on the documents specified in paragraph (7) of subdivision (b), that are not prepared or maintained in compliance with the department's regulations, and that do not allow the department to verify claims for program payments.

(d) The department may certify a recycling center that will operate less than 30 hours a week, as specified in paragraph (2) of subdivision (b) of Section 14571.

SEC. 2. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed electronically as part of the shipping report provided to the department.

(2) The department shall determine the number of eligible containers per site for which a handling fee will be paid pursuant to subdivision (e) or (g) in the following manner:

(A) Each eligible site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types.

(B) If the quotient determined pursuant to subparagraph (A) is equal to, or more than, 10 percent, the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.

(C) If the quotient determined pursuant to subparagraph (A) is less than 10 percent, the department shall divide the volume of glass and plastic beverage containers by 10 percent. That quotient shall be the maximum volume that is eligible for a handling fee for that month.

(3) (A) If a dealer where a supermarket site, nonprofit convenience zone recycler, or rural region recycler is located ceases operation for remodeling or for a change of ownership, the operator

1 of that supermarket site, nonprofit convenience zone recycler, or
2 rural region recycler shall be eligible to apply for handling fees
3 for that site for a period of three months following the date of the
4 closure of the dealer.

5 (B) Every supermarket site operator, nonprofit convenience
6 zone recycler, or rural region recycler shall promptly notify the
7 department of the closure of the dealer where the supermarket site,
8 nonprofit convenience zone recycler, or rural region recycler is
9 located.

10 (C) Notwithstanding subparagraph (A), any operator who fails
11 to provide notification to the department pursuant to subparagraph
12 (B) shall not be eligible to apply for handling fees.

13 (b) (1) The department shall not make handling fee payments
14 to more than one certified recycling center in a convenience zone.
15 If a dealer is located in more than one convenience zone, the
16 department shall offer a single handling fee payment to a
17 supermarket site located at that dealer. This handling fee payment
18 shall not be split between the affected zones. The department shall
19 stop making handling fee payments if another recycling center
20 certifies to operate within the convenience zone without receiving
21 payments pursuant to this section, if the department monitors the
22 performance of the other recycling center for 60 days and
23 determines that the recycling center is in compliance with this
24 division. Any recycling center that locates in a convenience zone,
25 thereby causing a preexisting recycling center to become ineligible
26 to receive handling fee payments, is ineligible to receive any
27 handling fee payments in that convenience zone.

28 (2) The department shall offer a single handling fee payment
29 to a rural region recycler located anywhere inside a convenience
30 zone, if that convenience zone is not served by another certified
31 recycling center and the rural region recycler does either of the
32 following:

33 (A) Operates a minimum of 30 hours per week in one
34 convenience zone.

35 (B) Serves two or more convenience zones, and meets all of the
36 following criteria:

37 (i) Is the only certified recycler within each convenience zone.

38 (ii) Is open and operating at least eight hours per week in each
39 convenience zone and is certified at each location.

(iii) Operates at least 30 hours per week in total for all convenience zones served.

(c) The department may require the operator of a supermarket site or rural region recycler receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site or rural region recycler to take any other action necessary for the department to determine that the supermarket site or rural region recycler does not receive an excessive handling fee.

(d) The department may determine and utilize a standard container per pound rate, for each material type, for the purpose of calculating volumes and making handling fee payments.

(e) (1) Except as provided in subdivision (g), on and after January 1, 2014, the department shall pay handling fees in the following amounts:

(A) ~~Two and one-tenth cents (\$0.021)~~ ____ cents (\$____) per beverage container for the first ~~100,000~~ ____ empty beverage containers redeemed per month at each eligible recycling site.

(B) ~~Five-tenths of one cent (\$0.005)~~ ____ of one cent (\$____) per beverage container for the next ~~100,000~~ ____ empty beverage containers redeemed per month at each eligible recycling site.

(C) ~~Four-tenths of one cent (\$0.004)~~ ____ of one cent (\$____) per beverage container for any additional empty beverage containers redeemed per month at each eligible recycling site.

(2) For purposes of this subdivision, “recycling site” means a single location of a supermarket site, nonprofit convenience zone recycler, or rural region recycler.

(f) (1) On and after January 1, 2016, but not more frequently than every two years thereafter, the department may conduct a survey pursuant to this subdivision of a statistically significant sample of certified recycling centers that receive handling fee payments to determine the actual cost incurred for the redemption of empty beverage containers by those certified recycling centers. If the department elects to conduct a survey, the department shall conduct the survey in conjunction with the cost surveys performed by the department pursuant to subdivision (b) of Section 14575 to determine processing payments and processing fees. The department shall include, in determining the actual costs, only those allowable costs contained in the regulations adopted pursuant

1 to this division that are used by the department to conduct cost
2 surveys pursuant to subdivision (b) of Section 14575.

3 (2) The department may adjust the costs determined pursuant
4 to paragraph (1) annually to reflect changes in the cost of living,
5 as measured by the Bureau of Labor Statistics of the United States
6 Department of Labor or a successor agency of the United States
7 government.

8 (3) The cost information collected pursuant to this section at
9 recycling centers that receive handling fees shall not be used in
10 the calculation of the processing payments determined pursuant
11 to Section 14575.

12 (g) (1) On and after January 1, 2017, the department may adjust
13 the amount of handling fees ~~specified~~ in subdivision (e) to better
14 reflect the cost of recycling at eligible recycling sites, using the
15 costs surveyed pursuant to subdivision (f).

16 (2) The department may, when adjusting the handling fee
17 amounts, establish one or more handling fee amounts using
18 categories based on the monthly recycling center volume, as
19 determined by the department, in a manner similar to the method
20 for the calculation of handling fees provided in subdivision (e).

21 (3) When adjusting handling fees pursuant to this subdivision,
22 the department shall adjust the handling fee amounts to reflect any
23 higher net cost per beverage container for the redemption of empty
24 beverage containers at recycling centers receiving handling fees,
25 as compared to the average net cost per container for the
26 redemption of empty beverage containers at recycling centers
27 surveyed pursuant to subdivision (b) of Section 14575.